FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

CATHERINE SNYDER, **RICHARD SNYDER** **Plaintiffs,** **v.** **GREENBERG, TRAURIG LLC *et al*** **Defendants.**	)	**Civil Action No.: 07CV469**

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

FIRST AMENDED COMPLAINT

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, Plaintiffs in *pro se*, Catherine and Richard Snyder, for their First Amended Complaint allege as follows:

This action arises from the unconstitutional, tortuous and unlawful actions of defendants Greenberg Traurig, LLP, Harley I. Lewis, Janet Shih Hajek and Steve Wadyka in violation of Fourth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. Sec. 1983, the common law, and Virginia law on invasion of privacy.

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JURISDICTION AND VENUE

1. This Court has jurisdiction over this cause of action under 28 U.S.C. §§ 1331, 1337, 1343(a), and 1367(a) and; 42 U.S.C. § 1983.

2. Jurisdiction of this court for the state law claims is authorized by Federal Rule of Civil Procedure 18(a) and arises under the doctrine of pendent jurisdiction.

3. The actions that form the basis for this cause of action took place in the Eastern District of Virginia and thus venue in this Court is appropriate. 28 U.S.C. § 1391.

PARTIES

4. Plaintiffs Catherine and Richard Snyder are citizens of the United States of America and reside in the State of Virginia, having an address of 603 Nash Street, Herndon, Virginia.

5. Greenberg Traurig is a law firm organized as a limited liability partnership with various offices throughout the United States, including places of business at 1750 Tysons Blvd., McLean, Virginia and New York City, New York.

6. At the times relevant to this action and to date, defendant Harley I. Lewin (hereinafter "Lewin") served as a lawyer with Defendant Greenberg Traurig. Lewin promotes himself as a specialist and expert in trademark litigation, including seizure orders. Lewin controlled, directed, perpetrated and aided and abetted the actions giving rise to this cause of action.

7. At the times relevant to this action and to date, defendant Janet Shih Hajek (hereinafter "Hajek") served as a lawyer with Defendant Greenberg Traurig. Hajek perpetrated and aided and abetted the actions giving rise to this cause

of action.

8. At the times relevant to this action and to date, defendant Steve Wadyka (hereinafter "Wadyka") served as a lawyer with Defendant Greenberg Traurig. Wadyka perpetrated and aided and abetted the actions giving rise to this cause of action.

FACTS

Defendants acted under color of law

9. Upon information and belief, on or about December 4, 2006, defendants, working on behalf of Diane von Furstenberg Studio (hereinafter "DVF"), obtained an *ex parte* seizure order from the U.S District Court for the Eastern District of Virginia (Alexandria division) (hereinafter "seizure Order") to search for and seize particularly identified items from Plaintiffs' home.

10. The seizure Order provided that "the United States Marshall for the Eastern District of Virginia and any federal, state, country or local law enforcement officers, *assisted* by one or more attorneys or agents of DVF" would execute and conduct the seizure for the identified items from Plaintiffs' home. See also 15 U.S.C. 1117(d)(9)(mandating that law enforcement officers "shall carry out the seizure under the order").

11. Upon information and belief, on or before December 8, 2006, defendants contacted the Herndon Police Department, Herndon, Virginia, to serve and execute the seizure order.

12. Upon information and belief, on or before December 8, 2006, defendants and

the Herndon Police Department agreed that defendants would carry out the ordered search and seizure for items in Plaintiffs' home.

13. On the morning of December 8, 2006, Defendant Lewin accompanied by defendants, Hajak, Wadyka and two other then unidentified people arrived at Plaintiffs home. With the aforementioned defendants were three officers of the Herndon Police Department.

14. Defendant Lewin told Plaintiff Richard Snyder, who answered the door on December 8, 2006, that he and the non-officers with him represented DVF and were there to conduct a search of Plaintiffs' home.

15. After hearing of Defendant Lewin's intent, Plaintiff Richard Snyder asked the officers if he was obligated to let the defendants into Plaintiffs' home to execute the seizure Order. One officer answered that, since the defendants had the seizure Order, Plaintiffs had to allow defendants to search Plaintiffs' home for purposes of a seizure. The officer told Plaintiff Richard Snyder that he and the other officers were present to "keep the peace."

16. Other than Wadyka, Defendant Lewin did not identify or introduce the other non-officers who entered Plaintiffs' home, nor did any of the non-officers who entered Plaintiffs' home introduce themselves to Plaintiffs at any time during the search.

17. Prior to conducting the search, Plaintiffs were not provided with a copy of the seizure Order by any of the Defendants or by the Herndon Police officers. At some point, someone did leave a copy of the seizure Order on a kitchen counter in Plaintiffs' home.

18. At all times, the search of Plaintiffs' home was controlled, orchestrated and directed by defendant Lewin, who also participated, aided and abetted the search and seizure with defendants Hajek and Wadyka.

19. As a result of the seizure Order, the agreement between defendants and the Herndon Police, the Police's delegation or ceding of authority to defendants and their joint efforts, defendants acted under color of law in controlling, directing, perpetrating and aiding and abetting the search and seizure at Plaintiffs' home.

The reporter

20. Accompanying defendants into Plaintiffs' home on December 8, 2006 was an unidentified woman, who Plaintiffs' reasonably believed was a lawyer, employee or agent of defendants or DVF. For example, when Plaintiff Catherine Snyder wanted to step outside to her front porch, the woman cautioned her "not to go outside." At no time during the search and seizure did defendants or the Herndon police officers identify or introduce the woman. Neither defendants nor the Herndon police officers sought Plaintiffs' consent for the woman to be present.

21. On information and belief, the woman was brought to Plaintiffs' home by defendants and not the Herndon Police officers, although the latter did know her identity and occupation prior to their arrival at Plaintiffs' home.

22. Approximately five months later in April 2007, Plaintiffs learned that the woman who accompanied defendants on December 8, 2006 was Larissa Macfarquar, a reporter for the *New Yorker* magazine.

23. Upon information and belief, defendants, and particularly defendant Lewin, orchestrated the events that resulted in Macfarquar's unlawful trespass of Plaintiffs' home on December 8, 2006. The seizure Order was used by defendants as the premise and pretext by which Macfarquar gained access to Plaintiffs' home on December 8, 2006.

24. Upon information and belief, the impetus for Macfarquar's unlawful presence in Plaintiffs' home was an article she was writing for the *New Yorker* profiling defendant Lewin's escapades as an attorney for defendant Greenberg Traurig.

25. On or about March 19, 2007, the *New Yorker* published an article, under Macfarquer's byline, entitled "Bag Man." The article is a profile of defendant Lewin and recounts, among other things, his actions and practices in executing seizure Orders, including defendants December 8, 2006 search and seizure at Plaintiffs' home.

26. Defendant Lewin republished the *New Yorker* article on his biography page on the Greenberg Traurig firm website. Upon information and belief, defendants Lewin and Greenberg Traurig use the *New Yorker* article to market for new business for their trademark litigation practice.

27. Upon information and belief and as recounted in the *New Yorker* article, in connection with the December 8, 2006 search and seizure, defendant Lewin took MacFarquar on a tour of Plaintiffs' home and allowed himself to be interviewed about the search and seizure.

28. Defendant Lewin made statements to MacFarquar about Plaintiffs' family

stability and lifestyle, which statements were false, defamatory and made with the intention to injure Plaintiffs' reputation. MacFarquar published defendant Lewin's statements in the *New Yorker* article, to wit that there was "something very wrong in that [Plaintiffs'] house" and that Plaintiffs would not have "adult toys … unless they couldn't spend their money any other way."

The search

29. The seizure Order limited the items to be seized from Plaintiffs' home to the following:

a. any and all unauthorized and unlicensed merchandise bearing the DVF marks, as well as the means for making the same;

b. the books and records relating thereto, including but not limited to records and data contained in electronic format on computers, servers, hard drives, zip drives and disks;

c. the containers or vehicles in which the same are held or transported, which Defendants sell, attempt to sell or hold for sale: and

d. any counterfeit DVF product, reproduction, copies or colorable imitations thereof, including dresses or other items.

See also 15 U.S.C. 1116(d)(1)(A)(seizure order shall be limited to "seizure of goods and counterfeit marks involved in such violation and the means of making such marks, and records documenting the manufacture, sale, or receipt of things involved in such violation").

30. In addition to items falling within the seizure Order, defendants seized the

following items from Plaintiffs' home on December 8, 2006

e. Plaintiffs' marriage certificate

f. Plaintiffs' and their two children's birth certificates

g. Plaintiffs' son's report card

h. Plaintiffs' seven year old son's username and password for the Fairfax County Schools' e-learning tool website;

i. Plaintiffs' social security benefits statements

j. Plaintiffs' children's social security cards

k. Personal clothing of Plaintiff Catherine Snyder's

l. A dress bearing the Marc Jacobs label

m. Plaintiffs' vehicle registration renewal form

n. Mortgage settlement documents relating to Plaintiffs' current home

o. Mortgage settlement documents relating to two homes previously owned by Plaintiffs

p. Plaintiff Catherine Snyder's life insurance policy

q. Plaintiffs' pending bills

r. Plaintiffs' tax returns for 2002, 2003, 2204, and 2005

s. Plaintiffs' bill statements for 2002, 2003, 2004, 2005 and 2006

t. A notebook containing all of the usernames and passwords to personal websites used by plaintiff Catherine Snyder

u. Plaintiffs' bank account statements, both personal and business

v. From Plaintiff Catherine Snyder's wallet, all of her personal credit cards

w. Plaintiffs' inactivated personal credit cards

x. Plaintiff Catherine Snyder's business license

y. Plaintiff Catherine Snyder's federal tax i.d. number

z. Plaintiff Catherine Snyder's Western Union customer account number

aa. The access code for Plaintiffs' personal voice mail account

bb. The telephone number of Plaintiff Richard Snyder's place of employment

cc. The access number to Plaintiffs' bank account

dd. Plaintiff Richard Snyder's pay statements

ee. Two checkbooks, including blank checks

ff. The passwords for Plaintiff Catherine Snyder's eBay and PayPal accounts.

gg. The personal bank account number of Plaintiff Catherine Snyder's mother.

31. None of the items listed in paragraph 30 falls within the limits of the seizure Order. Plaintiffs did not consent to the seizure of any of the items listed in paragraph 30.

32. Defendants search and seizure at Plaintiffs home lasted three or more hours. In conducting the search, Defendants had the opportunity and took the opportunity to review the contents of papers, paper files and computer files.

COUNT ONE
(42 U.S.C. 1983/Bivens)

33. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 to 32 as if fully repeated herein.

34. The Supreme Court held in *Wilson et al v. Layne* that a media "ride-along", while executing a warrant in a home, is an unreasonable search under the

Fourth Amendment of the United States Constitution.

35. Defendants' knowing and willful actions in facilitating MacFarquar's access to Plaintiffs' home, without Plaintiffs' knowledge or consent, for the specific purpose of writing an article about Defendant Lewin's search and seizure activities deprived Plaintiffs of their rights guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution.

36. As a direct result of Defendants' unlawful actions, Plaintiffs have suffered substantial injuries and damage.

COUNT TWO
(42 U.S.C. 1983/Bivens)

37. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 to 36 as if fully repeated herein.

38. The seizure by defendants of Plaintiffs' private papers and personal belongings, as set out in paragraph 30, exceeded the scope of the seizure Order.

39. Defendants, knowingly and willfully, exceeded the scope of the seizure Order.

40. Defendants knew or should have known that the items set out in paragraph 30 did not fall within the scope of the seizure Order.

41. Defendants' actions constituted an unreasonable search and seizure under the Fourth Amendment of the United States Constitution.

42. Defendants' actions deprived Plaintiffs of their rights guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

43. As a direct result of Defendants' unlawful actions, Plaintiffs have suffered substantial injuries and damage.

COUNT THREE
(Invasion of Privacy)

44. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 to 43 as if fully repeated herein.

45. Defendant Lewin intentionally and unlawfully disclosed Plaintiffs' names and identities to a magazine reporter for the purpose of advancing his legal practice, trade and private economic interests.

46. The conduct of defendant Lewin constituted an invasion of Plaintiffs' privacy.

47. As a direct result of the unlawful actions of defendant Lewin, Plaintiffs have suffered substantial injuries and damages.

COUNT FOUR
(defamation)

48. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 through 47 as if fully repeated herein.

49. During his interview with MacFarquar, the reporter, on or about December 8, 2006, defendant Lewin made statements to the reporter concerning Plaintiffs' family stability and lifestyle.

50. Defendant Lewin made these statements knowing that MacFarquar could use them in her *New Yorker* article.

51. Defendant Lewin's statements were false and defamatory.

52. Defendant Lewin uttered these statements with actual malice and in reckless

60. Defendants' actions in, among other things: (a) intentionally seizing personal information and property to which they were not entitled under the seizure Order; (b) facilitating a reporter's unlawful access to Plaintiff's home for the purpose of advancing their own legal practice and trade; (c) transgressing Plaintiffs' constitutional rights, (d) making false statements about Plaintiffs knowing of the likelihood that such statements would be published, and (e) re-publishing those statements on their internet website offend the standards of decency and morality of the community and civil society.

61. As a direct result of Defendants' unlawful and outrageous conduct, Plaintiffs and their sons suffered mental anguish, embarrassment, humiliation, depression, and an inability to work.

COUNT SEVEN
(aiding and abetting trespass)

62. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 to 61 as if fully repeated herein.

63. Defendants aided and abetted the unlawful trespass on Plaintiffs' property by MacFarquar

64. As a direct result of Defendants' unlawful conduct, Plaintiffs have suffered substantial injury and damages.

COUNT EIGHT
(abuse of process)

65. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 to 64 as if fully repeated herein.

66. In facilitating the unlawful access of MacFarquar, the reporter, to Plaintiffs'

disregard of their truth or falsity.

53. Defendant Lewin re-published the defamatory statements on his firm's website.

54. As a direct result of the unlawful actions of defendants Lewin, Plaintiffs have suffered substantial injury and damages.

COUNT FIVE
(conversion)

55. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 to 54 as if fully repeated herein.

56. Defendants intentionally and wrongfully assumed possession and control over Plaintiffs' private papers and personal property in contravention of Plaintiffs' ownership rights.

57. As a direct result of Defendants' unlawful actions, Plaintiffs have suffered substantial injury and damages.

COUNT SIX
(intentional infliction of emotional distress)

58. Plaintiffs repeat and re-allege each and every allegation set forth in paragraphs 1 to 57 as if fully repeated herein.

59. Defendants' actions in, among other things: (a) exceeding the scope of the seizure Order and taking possession of Plaintiffs' personal papers and personal belongings; (b) facilitating a reporter's unlawful access to Plaintiffs' home, (c) uttering defamatory statements to the reporter knowing that those statements could be used in the reporter's planned article were intentional and reckless, and re-publishing those statements on their internet website.

property, Defendants acted for the purpose of obtaining positive publicity regarding their legal practice and trade and to enhance their private economic interests.

67. Defendants actions were an unlawful and improper use of the seizure Orders.

68. A seizure order under federal law is an extraordinary remedy. Persons, like defendants, act with an improper purpose when they use a seizure order for purposes of discovery, to fish for evidence of other alleged crimes, or to gain control over property that is not covered under the seizure order or authorized under the Act. See 15 U.S.C. § 1116.

69. Defendants' seizures of personal papers and property, as listed in paragraph 30, exceeded the limitations of the seizure Order.

70. Seizing property, which falls outside the scope of a seizure order, is improper in the regular prosecution of a seizure order.

71. Defendants' actions in seizing property outside the scope of the seizure Order were knowing and willful and taken with actual malice.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

A. Damages in an amount of $250,000

B. Punitive damages in an amount of $2,500,000

C. An award of attorneys' fees, costs and disbursements incurred in this action, and

D. For such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues.

Respectfully submitted,

Catherine Snyder

Richard Snyder

603 Nash Street
Herndon, Virginia 20170
703-707-8130
Plaintiffs in Pro Se

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

CATHERINE SNYDER, **RICHARD SNYDER**	)	
Plaintiffs,	)	**Civil Action No.: 07CV0469**
v.	)	
GREENBERG, TRAURIG et al,	)	
Defendants.	)	

CERTIFICATE OF SERVICE

We hereby certify that on this 23rd day of July 2007, the foregoing Amended Complaint was mailed to Defendants Counsel via US mail, at the following address:

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